

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of FRANK L. REED and U.S. POSTAL SERVICE,
POST OFFICE, Detroit, Mich.

*Docket No. 96-712; Submitted on the Record;
Issued January 30, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that his back condition and rheumatoid arthritis are causally related to his employment factors.

The Board has duly reviewed the case record in the present appeal and finds that the Office of Workers' Compensation Programs properly determined that appellant failed to meet his burden of proof in establishing that he sustained an injury in the performance of duty, as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was filed within the applicable time limitations of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the

¹ 5 U.S.C. § 8101.

² *Joe Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by claimant.

The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴

In this case, appellant, a mail processor, filed an occupational disease claim on April 17, 1995, alleging that while lifting a tray of mail from an APC and putting it on a flatbed, he turned around and his back gave out.⁵ On the CA-2 form appellant identified the nature of disease or illness as back, rheumatoid arthritis. The employing establishment noted that appellant stopped work on September 27, 1994. The Office denied appellant's claim on September 18, 1995 on the grounds that he failed to establish that his claimed condition is causally related to his employment factors.

The medical evidence in support of appellant's claim consists of a March 14, 1994 report by Dr. Angelia Mosley, a Board-certified internist; a June 14, 1994 radiological report by Dr. John Kelly, an osteopath; a June 20, 1994 report by Dr. John D. Calabria, an osteopath; and May 12, 1994 progress notes by a Dr. Simon with a Veterans Administration medical center.

In the March 14, 1994 report, Dr. Mosley stated that she initially evaluated appellant on July 7, 1993. She stated that appellant related a history of gradual onset of bilateral shoulder, elbow, wrist, and knee pain with stiffness and swelling for the last six to twelve months. Dr. Mosley reported her findings on examination of painful but full range of motion of his shoulders, wrists, bilateral proximal interphalangeal joints and left knee. During an examination on September 9, 1993 Dr. Mosley found painful and limited movement of the cervical spine and shoulders, flexion contracture of the left elbow, swelling, tenderness and limited movement of the bilateral MCP and PIP joints, painful movement of the knees and ankles, effusions in the ankles, and tenderness of the foot joints bilaterally. Dr. Mosley's examination on January 7, 1994 revealed painful, and limited range of motion in his shoulders, ankles and bilateral toe joints. Dr. Mosley diagnosed aggressive rheumatoid arthritis and stated "I feel that his arthritis will not improve or be stabilized if he continues working his current job. It is possible that if he continues working his current job that his joints will continue to be inflamed. Constant rheumatoid inflammation such as [appellant's] causes deformity eventually. I recommend that

⁴ *Id.*

⁵ Appellant's description implies that appellant sustained a traumatic injury. However, on two occasions during the development of evidence, the Office requested that appellant provide information regarding a June 1, 1991 traumatic injury, but appellant never fully responded. The record does not reflect that appellant ever filed a claim for a traumatic injury.

he consider either medical leaves or medically related early retirement.” Dr. Mosley concluded that appellant’s diagnosed condition was related to his employment; however, she failed to provide any medical rationale to support her opinion, *i.e.*, Dr. Mosley did not identify the specific factors of employment to which appellant attributed his condition. Moreover, she did not address how engaging in his employment duties over a period of time either contributed or caused appellant’s diagnosed condition. Therefore, the March 14, 1994 report is insufficient to establish appellant’s claim.

In the June 14, 1994 radiological report, Dr. Kelly stated that a CT (computerized tomography) scan of the lumbar spine revealed facet joint hypertrophy at L3-4 level. He diagnosed mild disc bulge at L4-5 and L5-S1 level with mild narrowing of the spinal canal without focal stenosis. Dr. Kelly also stated that due to appellant’s size underlying small disc herniations could not be excluded. Dr. Kelly failed to address a causal relationship between appellant’s diagnosed condition and any employment factors. Therefore, the June 14, 1994 report is insufficient to establish appellant’s claim.

In the June 20, 1994 report, Dr. Calabria stated that appellant “has rheumatoid arthritis. The arthritis is in his knees, elbows and shoulders.” He doctor went on to say that “[appellant] has difficulty with standing and sitting. Change in posture exacerbates his arthritis.” Dr. Calabria also stated that appellant has carpal tunnel syndrome in both hands and “it gives out sometimes when he is lifting and also with repetitive movement of the hands.” Dr. Calabria stated that bending and walking stairways increases appellant’s knee pain significantly. He further stated that appellant is taking medication for his arthritis. Dr. Calabria stated that,

“I am unaware of whether or not the condition was caused or aggravated by [appellant’s] employment. The patient works for the postal service and he has to push heavy objects at times. This could be very difficult for a person with rheumatoid arthritis. Because of his pain, any kind of physical activity could prove very difficult for him. Rheumatoid arthritis can have remissions and exacerbations throughout his life, so he will have to be followed closely.”

Dr. Calabria provided a speculative statement on causal relationship, specifically noting that he was unaware whether or not appellant’s condition was caused or aggravated by his employment. Dr. Calabria’s June 20, 1994 report is, therefore, insufficient to establish appellant’s claim.

In the May 12, 1994 progress notes, Dr. Simon stated that “[appellant] currently has bronchitis and sciatica. He may have a herniated dis[c].” Dr. Simon failed to causally relate appellant’s claimed condition to any employment factors. The May 12, 1994 progress notes are insufficient to establish appellant’s claim.

By letters dated June 5 and July 10, 1995, the Office advised appellant and by letter dated August 18, 1995, the Office advised Dr. Calabria and appellant of the specific type of evidence needed to establish appellant’s occupational disease claim, but such evidence was not submitted. Therefore, the Board finds that the evidence of record at the time the September 18, 1995 decision was issued was insufficient to meet appellant’s burden of proof.

The Office received additional medical evidence, a September 11, 1995 report by Dr. Calabria. By decision dated October 27, 1995, the Office found that the evidence was insufficient to establish appellant's claim.

The Board finds that the September 11, 1995 report by Dr. Calabria is not sufficient to establish appellant's claim. Dr. Calabria previously stated that he was unaware whether or not appellant's rheumatoid arthritis was caused or aggravated by appellant's employment. In the September 11, 1995 report he stated that, "most likely [appellant's] job will only continue to aggravate his condition" and "Working would probably aggravate this condition." Dr. Calabria's opinion on causal relationship is speculative as it is couched in words such as most likely and probably. For this reason appellant has not submitted sufficient medical evidence in support of his claim.

The decision of the Office of Workers' Compensation Programs dated October 27 and September 18, 1995 are affirmed.

Dated, Washington, D.C.
January 30, 1998

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member